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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/039,622 | 12/31/2001 | Dennis W. Vance | 18590-06192 | 2497 |
| 758 | 7590 | 09/24/2004 | EXAMINER | |
| FENWICK & WEST LLP SILICON VALLEY CENTER 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041 | | | PRITCHETT, JOSHUA L | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2872 | |

DATE MAILED: 09/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/039,622

Applicant(s)

VANCE ET AL.

Examiner

Joshua L Pritchett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 41 is/are allowed.
- 6) ☒ Claim(s) 39, 40 and 42-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 March 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to Amendment filed July 26, 2004. Claim 41 has been amended as requested by the applicant.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 39, 40 and 42-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vance (US 5,563,738) in view of Ziera (US 5,932,342).

Regarding claim 39, Vance teaches a light filter comprising a first layer (16) of substantially opaque material (col. 3 line 28) including front and back surfaces (Fig. 6A); a plurality of light transmissive beads (14) disposed in a single-layer array within the first layer of opaque material with first portions of the beads penetrating through the front surface of the first layer (Fig. 6A) to form light transmissive apertures and remaining portions of the beads protruding through the back surface of an not disposed within the first layer to receive incident light (Fig. 6A). Vance further teaches a second layer (12). Vance lacks a layer having asymmetrical light dispersion. Zeira teaches a light dispersion having asymmetrical light

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dispersion (col. 3 lines 4-6) characteristics along orthogonal axes and the layer including within a material for scattering incident light (col. 3 lines 4-6). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to equip second layer of Vance with the light-dispersing layer of Zeira for the purpose of enlarging the viewing angles of the filter.

Regarding claim 40, Vance teaches the second layer disposed to receive light emanating from the apertures (Fig. 6A).

Regarding claim 42, Vance teaches a conformal layer (62) of transmissive material affixed to the back surface of the first layer and the remaining portion of the beads to receive incident light (Fig. 10B). Regarding claims 13 and 43, Vance teaches the beads have a radius R , and a thickness of the conformal layer is not greater than R (Fig. 10B).

Regarding claim 44, Vance teaches the beads have a radius R , and the thickness of the conformal layer is about 10% of R (Fig. 10B).

Regarding claim 45, Vance teaches a support layer of transparent material disposed intermediate the beads and the second layer (Fig. 8).

Regarding claim 46, Vance teaches a support layer of transparent material disposed relative to the beads and the second layer (Fig. 8).

Regarding claim 47, Vance teaches a thin transparent layer disposed between the first layer and the second layer, the beads penetrating the first layer (82) and the thin transparent layer (10) to form apertures of increased diameter (Fig. 8).

Allowable Subject Matter

Claim 41 is allowed.

The following is an examiner's statement of reasons for allowance: the prior art of record fails to teach or suggest the second layer interposed between the incident light and the remaining portion of the beads protruding through the back surface of the first opaque layer.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Response to Arguments

Applicant's arguments filed July 26, 2004 have been fully considered but they are not persuasive.

On page 7 of Amendment applicant argues that there is no motivation to combine the Vance reference and the Zeira reference for the purpose of enlarging the viewing angle of the filter. Vance teaches it is beneficial to enlarge the viewing angle (Fig. 7; col. 8 lines 55-67) and Zeira teaches an alternate means of expanding the viewing angle (Fig. 3; col. 5 lines 24-35). The applicant also admits (page 7 of Amendment) that Vance teaches enlarging the viewing angle and that Zeira teaches a light dispersing film. A light dispersing film enlarges a viewing angle. Therefore, the two references teach different means to achieve the same goal and there would be a motivation to combine the two teachings. Furthermore, both the Vance reference (col. 1 lines

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5-10) and the Zeira reference (col. 1 lines 18-24) teach the application of their invention to a rear projection display screen.

On page 8 of Amendment applicant argues that the rejection is derived from improper hindsight reconstruction. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). As previously stated there is motivation to combine the two references, therefore the hindsight required for the combination of the references is proper.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37


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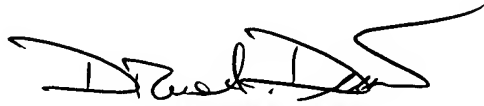
CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua L Pritchett whose telephone number is 571-272-2318. The examiner can normally be reached on Monday - Friday 7:00 - 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A Dunn can be reached on 571-272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JLP 


DREW A. DUNN
SUPERVISORY PATENT EXAMINER